

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION**

DMS, LLC,

Plaintiff,

Case No.:

vs.

JURY DEMAND

CENTRAL MUTUAL INSURANCE
COMPANY.,

Defendant.

NOTICE OF REMOVAL

Defendant Central Mutual Insurance Company (“Central Mutual”), pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby gives notice of the removal of the above-entitled action from the Circuit Court for Marshall County, Tennessee to the United States District Court for the Middle District of Tennessee, Columbia Division. As grounds for removal, Central Mutual states as follows:

1. On March 20, 2019, Plaintiff filed a complaint against Central Mutual in the Circuit Court for Marshall County, Tennessee, Case No. 2019-CV-23.

2. Pursuant to 28 U.S.C. §1446(a), a copy of all process, pleadings, and orders in this action is attached hereto as **Exhibit A**.

3. This removal is timely under 28 U.S.C. § 1446(b) because less than 30 days has lapsed since Central Mutual was served with the complaint on May 13, 2019.

4. This case is properly removable pursuant to 28 U.S.C. § 1441, which provides in pertinent part as follows:

(a) Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United

States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

(b)(2) A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

5. This action is properly removable under 28 U.S.C. § 1332 because this is a civil action between parties whose citizenship is completely diverse, and the amount in controversy exceeds \$75,000.

6. Upon information and belief, Plaintiff DMS, LLC is a Tennessee limited liability company with its principal office located in Franklin, Tennessee. As a limited liability company, DMS, LLC is deemed a citizen of the states where its members are citizens. *See V&M Star, LP v. Centimark Corp.*, 596 F.3d 354, 355-56 (6th Cir. 2010). Upon information and belief, DMS, LLC's members are citizens of Tennessee. Accordingly, DMS, LLC is a citizen of Tennessee for purposes of diversity jurisdiction.

7. Defendant Central Mutual Insurance Company is an Ohio domesticated mutual insurance company with its headquarters in Van Wert, Ohio. Accordingly, Central Mutual Insurance Company is a citizen of Ohio for purposes of diversity jurisdiction.

8. Plaintiff's First Amended Complaint seeks \$20,000,000 in compensatory damages. Central Mutual disputes liability for all punitive damages and a majority of compensatory damages.

9. The United States District Court for the Middle District of Tennessee, Columbia Division, is the appropriate court for removal from the Circuit Court for Marshall County, Tennessee.

10. Pursuant to 28 U.S.C. § 1446(d), Central Mutual will file a copy of this notice of

removal with the Clerk and Master of the Chancery Court of Marshall County, Tennessee and will also provide a copy of this notice to Plaintiff.

WHEREFORE, Central Mutual respectfully requests that this Court take jurisdiction of this action and issue all necessary orders and process to remove this action from the Circuit Court of Marshall County to the United States District Court for the Middle District of Tennessee.

Respectfully submitted,

s/ Heather H. Wright

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Attorneys for Defendant Central Mutual Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was sent via U.S. mail, first class postage prepaid, and electronically filed with the Court on the following this 12th day of June, 2019:

Brandon McWherter
Gilbert McWherter
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Attorney for Plaintiff

s/ Heather H. Wright

Heather Howell Wright